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PITNEY BOWES INC.
35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON, CT 06484-8000

EXAMINER
OBEID, FAHD A

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/722,231
Filing Date: November 25, 2003
Appellant(s): HAMMELL, BRADLEY R.

George M. Macdonald
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/02/2008 appealing from the Office action

mailed 03/31/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2002/0032573	Williams et al.	03-2002
6965868	Bednarek	11-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-3 and 5-20 are rejected under 35 U.S.C. 102(b) as being

anticipated by Williams (US 2002/0032573).

3.   <u>Regarding Claims 1, 7, and 13:</u> Williams discloses a method for a user to find

pinpoint status of a shipment being transported by a carrier, comprising the steps of:

- Clicking on a shipment pinpoint symbol on a computer screen (page 24 para

  381-382).

- Connecting automatically to an Internet or private network, if a connection is not

  already established (fig 65, page 6 para 103, page 6 para 110, and claim 17).

- Sending automatically a shipping pinpoint inquiry to the carrier via the Internet or

  private network (page 3 para 25, page 5 para 90-92, page 5 para 91, page 6

  para 110, and page 31 para 562-563).

- Requesting a pinpoint location of the shipment in response to the shipping status

  inquiry (fig 60 and fig 63).

- Receiving the requested pinpoint location of the shipment to the computer screen, wherein the pinpoint location identifies a position between checkpoints at each of which shipment presence is monitored regardless of user inquiries (fig 60 and fig 63).

4.   Regarding Claims 2 and 14: Williams discloses a method of claim 1, wherein the shipment pinpoint symbol is an icon of a file, in a markup language, including a tracking code of the shipment (page 117).

5.   Regarding Claims 3 and 15: Williams discloses a method of claim 1, wherein the shipment pinpoint symbol is provided to the computer screen in conjunction with a shipment checkpoint symbol, and wherein the shipment checkpoint symbol is for obtaining information as to the presence of at least one of the checkpoints (figs 62-63).

6.   Regarding Claims 5 and 16: Williams discloses a method of claim 1, wherein the position is separate from all of the checkpoints (fig 62 & 63).

7.   Regarding Claim 6: Williams discloses a method for providing a user the status of a shipment being transported by a carrier, comprising the steps of:

- Processing a user transaction at a web site (page 101, page 110).
- Receiving a type of shipment selection (fig 41, page 101, page 110, and page 120).

- Creating a file that includes markup language and that includes at least one link to shipment tracking information (page 4 para 73, page 5 para 76, page 23 para 379, page 29 para 534, and pages 117-118).

- Providing the file to the user for storage locally at a user device (page 24 para 381-382, page 28 paras 495, 498, & para 501, and pages 117-118).

- Receiving a check status request from the file after the file is activated (page 28 paras 495, 498, & para 501 and page 29 para 534).

- Providing the status to the user (fig 60-62).

8.   <u>Regarding Claim 8:</u> Williams discloses a method of claim 6, further comprising the steps of:

- Replacing or modifying the file to create an improved file (figs 59-60, page 8 para 143, page 30 paras 539-541, and page 30 para 544).

- Activating the improved file to check an additional status of an additional shipment being transported by an additional carrier (fig 63).

9.   <u>Regarding Claim 9:</u> Williams discloses a method of claim 8, wherein the step of replacing or modifying the file is implemented at least partly by a program stored in the user device (page 30 paras 539-541, and page 30 para 544).

10.   Regarding Claim 10: Williams discloses a method of claim 8, wherein the step of replacing or modifying the file is implemented at least partly by a third party (page 30 paras 539-541, and page 30 para 544).

11.   Regarding Claim 11: Williams discloses a method of claim 8, wherein the step of replacing or modifying the file is implemented at least partly by the carrier or by the additional carrier (page 30 paras 539-541, and page 30 para 544).

12.   Regarding Claim 12: Williams discloses a method of claim 6, wherein the shipment tracking information is for a plurality of shipments being transported by a plurality of carriers (fig 63).

13.   Regarding Claim 17: Williams discloses a method of claim 9, further comprising: The program stored in the user device automatically polls additional check status requests after the status indication changes (figs 60-63 and paras 495, 498, & 501).

14.   Regarding Claim 18: Williams discloses a method of claim 17, wherein: The status indication change indicates the shipment is out for delivery (paras 187, 360, and 565).

15.   Regarding Claim 19: Williams discloses a method of claim 9, further comprising:

The program stored in the user device displays a location message when a delivery vehicle is a first distance from a delivery location associated with shipment (the server will update the package status in the server database with the tracking response and will return the detailed package information to the web client of the requesting user from the system database; see at least para 565).

16.   Regarding Claim 20: Williams discloses a method of claim 9, further comprising: The program stored in the user device is loaded as a background process after the status indication changes (notifying a recipient that a package has been sent and providing to the recipient tracking number and link to track the package; (fig 27, para 258, and 495-497).

Claim Rejections - 35 USC § 103

17.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

18.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (US 2002/0032573) in view of Bednarek (US 6,965,868).

19.   Regarding Claims 4: Williams does not explicitly disclose compensating clients
for delayed services.

However, Bednarek does disclose a method of claim 1, wherein if the step of
providing the pinpoint shipping status information to the computer screen is performed
later than a certain time after the step of sending automatically the shipping pinpoint
inquiry, due to a delay, then a user of the computer screen is compensated for the delay
(col 18 lines 43-53 and col 42 lines 6-23).

It would have been obvious to one having ordinary skill in the art at the time the
invention was made to include reimbursement for delayed services in William's online
shipping management enabled, for the advantage of customer satisfaction.

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and
addresses them individually.

As per appellant's arguments filed on 09/02/2008, the appellant argues that:

Argument 1: William does not teach "a server computer for providing to a user
computer a clickable shipment pinpoint symbol that is stored locally and when selected
by the user triggers a shipping pinpoint inquiry to a carrier".

In response to argument 1: the examiner respectfully disagrees. William does
teach a system will generate an HTML hyperlink (a clickable shipment pinpoint symbol),
a user can e-mail the HTML hyperlink text to a recipient, when the recipient receives the
e-mail with the HTML hyperlink, the recipient can click on the link in the email and the

recipient's web browser will use the URL contained in the link to locate the appropriate

system webpage (paras 381-382). Furthermore, William teaches an HTML hyperlink

once generated can be copied and pasted by the desktop user into another system, the

hyperlink can be <u>saved</u> in a saved packages list (para 388); Moreover, as depicted in fig

62 a user can view the shipping information on a website and have the ability to send

and <u>add</u> the tracking number as an HTML hyperlink (shipment pinpoint symbol) where

the hyperlink can be clicked to retrieve a detailed information about the shipment status

(para 534).

   Argument 2: William does not teach "pinpoint location information".

   In response to argument 2: the examiner respectfully disagrees. William does

teach an HTML hyperlink (shipment pinpoint symbol) where the hyperlink can be clicked

to retrieve a <u>detailed information</u> about the shipment status (para 534), the tracking

information screen as depicted in fig. 62 provides a link with which a user can request a

more detailed shipping information. Also, William teaches providing an option to a user

to view <u>detailed tracking status</u> (para 528).

   Argument 3: William does not teach "wherein the shipment pinpoint symbol is

an icon of a file including a tracking code of the shipment".

   In response to argument 3: the examiner respectfully disagrees. William does

teach notifying a recipient of shipment initiation with a tracking number (tracking code)

and an HTML link (shipment pinpoint symbol) to track it (para 495). Also, William

teaches a system that can generate a package identifier for each HTML hyperlink

(shipment pinpoint symbol) (para 385). Furthermore, William teaches a tracking

information screen that provides an HTML link which allows a user to add a tracking

number to the tracking log (para 534).

     Argument 4: William does not teach "displays a location message when a

delivery vehicle is a first distance from a delivery location associated with the shipment"

     In response to argument 4: the examiner respectfully disagrees. William does

teach as depicted in fig. 62, a tracking information screen displays detailed information

about the shipment status (para 534); a server will update the package status in the

server database with the tracking response and will return the detailed package

information to the web client of the requesting user from the system database (para

565); William also teach notifying a recipient that a package has been sent and

providing to the recipient tracking number and link to track the package. Notifying a

recipient of a shipment pick-up; e-mail to the user web links embedded in e-mail

notification which takes users to publicly accessible areas of the system; providing

status messages to the users (fig 27, paras 258, and 495-499). Moreover, William

teaches a tracking information screen that provides a user with instruction for sending a

URL of a tracking information to various e-mail recipients along with a message (para

534).

     Argument 5: there is no suggestion to combine the references and the

examiner has not established a prima facie obviousness rejection.

     In response to argument 5: the examiner respectfully disagrees. the examiner

recognizes that obviousness can only be established by combining or modifying the

teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would be extremely advantageous to incorporate the teachings of Bednarek into the disclosure of Williams, for the same purpose stated in the previous action. Therefore, in view of the above evidence, the combination of Williams in view of Bednarek still meet the scope of the limitations as currently claimed.

Furthermore, KSR forecloses the argument that a ***specific*** teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex parte Smith*, -- USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (citing *KSR*, 82 USPQ2d at 1396).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Fahd A Obeid/

Examiner, Art Unit 3627

Conferees:

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

Vincent Millin /VM/

Appeals Conference Specialist